

Information Summary and Recommendations

Vision Care Consumer Assistance Act Sunrise Review

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Special Preface: Reaching A Higher Plateau

During the public hearing for this Sunrise Review, testimony was presented by an optician, Mr. Rick Kehl. The review panel felt that several parts of his testimony were particularly pertinent, and are worth repeating as part of this report. These comments are presented without further comment.

"I feel the central issue here today should be this simple: Do the right thing for the consumer, treat them as we would expect to be treated ourselves. Call it the Golden Rule, call it whichever you choose, but these are rules by which people have lived within our society for at least hundreds if not thousands of years....

I don't think things are as complicated as they appear to be made, and this may sound naive and maybe in some large communities it is naive, but I come from a small community in Eastern Washington, and in small, close-knit communities, there's a tendency to police their own unscrupulous merchants and professionals. You live and prosper or you leave in disgrace by your own ethics, and I guess maybe that's one of the things that recommends small communities to some of us and I certainly appreciate that environment.

I didn't know I couldn't work with an optometrist and his patients because we always had. We refer information on patients back and forth because it's good business. We both seek the goodwill from the customer and from each other, and it didn't seem to me that there was this large a problem until I was exposed to some of the frustrations and some of the issues that are before you today. Basically, I guess you might say we trusted each other's professional integrity and we quietly knew that any violations would serve to weaken that resolve.

...professional associations began to decide that somebody has to have it all. I personally believe there is room for all three professions in the eye care industry, and I don't think that it's incumbent upon any of us to try to legislate our way to the entire pie. Good faith, compassion, professionalism, a genuine consideration for the consumer in between would solve a lot of these issues before you today.

It's my hope that you members [of the review panel] and even some partisan attendants here today, might wade through the muddied waters to a higher plateau -- one that recognizes the individual rights of the consumer above the self-serving rules of professional associations mired in legalese and preoccupied with expansion of scope of practice."

Vision Care Sunrise Review

Executive Summary

Proposal for Sunrise Review

The Opticians Association of Washington submitted a legislative proposal (HB 1847) during the 1993 Legislative Session that was forwarded to the Department of Health and Board of Health for review under the sunrise criteria. The House Health Care Committee later supplied the department with a proposed Substitute House Bill 1847 to be used for the Sunrise Review. Substitute House Bill 1847 would, among other things, require prescribers to give a copy of the written contact lens prescription to the patient at the completion of the eye examination; and require opticians to notify patients that the prescriber is to monitor performance of the initial set of contact lenses on the eyes.

In addition, two questions were provided by the legislature to the department to serve as the main focus of the review: (1) Is the public health and safety at risk under the current practices of licensed vision care providers? and; (2) Are the current practices of optical prescription content and release conducive to consumer freedom of choice, cost containment, and competition among the licensed vision care providers?

Findings

Response to Question 1: No.

No evidence was presented to show that harm is being caused to the public by current practices among opticians, optometrists and ophthalmologists. The applicant's proposal (Proposed Substitute HB 1847) would enhance current practices by adding some uniformity to the prescription process by treating the relationship between the optician and any prescriber the same. The applicant's proposal is in line with national and state health care reform by emphasizing personal responsibility.

Response to Question 2: No.

Contact lens prescription release is not currently required. Mandating prescription release (with "OK for contacts") as PSHB 1847 calls for, would maximize patient freedom of choice and enhances competition. Applicant's proposal would give uniformity to the prescription process. There is a safeguard that optometrists who don't want to do contact lenses don't have to; market conditions would prevail. Patient freedom of choice to choose a fitter of contact lenses is greatly enhanced by the proposal without jeopardizing public health and safety. Ophthalmologists currently give written prescription to patients so they can get them filled and refilled where they chose. The process can work just as well for Optometrists.

Recommendations

1. *With minor modifications (described below) applicant's proposal should be adopted by the legislature.*
2. *Clarify the wording about time limits on prescriptions. Proposed Substitute HB 1847 is unclear as to whether the minimum or maximum is two years. (Sec 3(1)d and 4(3)).*
3. *Patient notification should be improved by requiring all fitters and dispensers of contact lenses to distribute a safety pamphlet, such as the one prepared by a variety of eye health care organizations (attached) or comparable material.*
4. *Allow follow-up visits with the provider of the consumer's choosing.*
5. *Clarify that a prescriber is not required to note "okay for contacts" if the patient does not want contacts. Suggested wording for the first sentence of Section 3 (1)(c).*

Information Summary and Recommendations

Current Regulation

Washington state statute provides licensure for three vision care-related professions: Ophthalmologists (medical doctors who specialize in eye care, including surgery); Optometrists (doctors of optometry who deal with vision and eye health, but without surgery); and Opticians (technicians who make and fit eyeglasses, and fit and dispense contact lenses.)

Ophthalmologists and Optometrists conduct eye examinations to determine the patient's vision problems, if any, and to prescribe remedies. While all three professionals are permitted to fill prescriptions, usually only Optometrists and Opticians actually do. Optometrists write the overwhelming majority of vision prescriptions.

In recent years, attempts by the Board of Optometry to change how prescriptions are filled have been successfully challenged by the Opticians. Currently, both professions are seeking rules changes that would revise the prescription and filling process. Because these rules are not the subject of the sunrise review, mention will be made of them only to the extent they support or explain findings or recommendations that appear later in this report.

Proposal for Sunrise Review

The Opticians Association of Washington submitted a legislative proposal (HB 1847) during the 1993 Legislative Session that was forwarded to the Department of Health and Board of Health for review under the sunrise criteria.

The Department sought from the Legislature further guidelines for reviewing the proposal. In response, the House Health Care Committee supplied the department with a proposed Substitute House Bill 1847 to be used for the Sunrise Review. A copy of that bill is attached at the end of this report. Substitute House Bill 1847 would:

1. Recognize the legislature's role in ensuring appropriate access to vision care by clarifying necessary prescription content and ensuring prescription release to the patient.
2. Clarify several definitions, notably for "fitting" of contact lenses which must be based on a written prescription, and any alterations during the fitting trial period may not alter the effect of the written prescription
3. Require prescribers to give a copy of the written prescription to the patient at the completion of the eye examination.
4. Set a minimum prescription validity duration of two years, unless a shorter time is warranted by the health of the eye.

5. Require opticians to obtain, in writing, approval from the prescriber for contact lenses if the patient wants contact lenses and the prescription has no notation about contacts.
6. Require opticians to notify patients that the prescriber is to monitor performance of the initial set of contact lenses on the eyes. The patient would be asked to sign a document noting this advice.
7. Empower the secretary to declare rules "null and void" if they conflict with the content of this bill.

In addition, two questions were provided by the legislature to the department to serve as the main focus of the review.

1. Is the public health and safety at risk under the current practices of licensed vision care providers?
2. Are the current practices of optical prescription content and release conducive to consumer freedom of choice, cost containment, and competition among the licensed vision care providers?

During the course of the public hearing, the Optometric Association representatives were asked to provide additional information on "harm to the public." This raised the question as to which party had the burden of proof for this criteria. Subsequent communication was provided to both the Opticians and Optometrists asking that as both parties were seeking change to the status quo, both parties should provide any evidence of harm that they might have.

Summary of Information Submitted/Collected

The Department solicited information from all interested parties, and in particular the Opticians and Optometrists. A public hearing was held on October 5, 1993, at which testimony was given by Opticians and Optometrists. Written testimony was received from the Ophthalmologists. In addition, the applicant package was submitted by the Opticians on August 30, 1993, and a written statement from the Optometrists addressing the same questions was received on August 10, 1993. During the 10-day written comment period following the public hearing, additional comments were provided by Opticians and Optometrists.

The following information is a summary of the information provided. It represents a paraphrasing of that information and does not reflect the opinion of the Department or anyone other than the group to which the statements are attributed in the italicized heading.

1. Is the public health and safety at risk under the current practices of licensed vision care providers?

Statement by Opticians

Of the licensed vision care providers, dispensing opticians are the only ones who do not perform eye examinations. They are therefore dependent upon receiving a prescription written by an ophthalmologist or an optometrist in order to perform their scope of practice.

Dispensing opticians were licensed in Washington state in 1957. Since then, the accepted method of beginning a safe contact lens fitting was to ensure that the patient's physical eye health was determined to be satisfactory using the comprehensive eye exam. The patient then received a prescription for eyeglasses with a notation "okay for contacts" or similar wording.

It has only been in the past nine years that dispensing opticians' fitting practices have been called into questions by optometry. Yet no documentation has been provided to show that any patient fit with contact lenses by a dispensing optician has incurred harm.

A follow-up check of the fit of the lenses on the eye by a prescribing doctor has always been part of the optician's fitting protocol. Periodic re-checks are also strongly recommended. Ophthalmologists would be very aware of faulty care if any had occurred, and would, if necessary, have taken the appropriate action, which they have not done. The Ophthalmologists support the Opticians' proposal.

The normal practice for Ophthalmologists is to release their written spectacle prescriptions with a notation "okay for contacts" or similar language, thereby granting their patients freedom of choice when selecting a provider for their eyeglasses or contact lenses. If consumers were potentially at risk by this practice, the medical doctors would not have cosponsored and heartily endorsed this bill.

In the opticians statute, RCW 18.34, the only proviso made with regard to the fitting of contact lenses is that the process can only be undertaken when the prescription is in writing. If the prescription is silent on contacts, opticians routinely contact the prescriber to ascertain if there are any contraindications for fitting a contact lens on the patient.

Statement by Optometrists

Yes. First, current practices encourage inadequate contact lens evaluation examinations where an oral "okay for contact lenses" with a spectacle prescription is the basis for fitting by an optician. Second, current practices allow a patient to be fitted for contact lenses and supplied with lenses thereafter without an evaluation of the final fit by the prescriber of the lenses on eye. There is no "contact lens prescription" until the fitting process is complete.

Attempting to equate the prescription of contact lenses with the prescription of spectacles can endanger the public health.

Instructing an optometrist to say "okay for contact lenses" on a spectacle prescription and equate that with a detailed contact lens prescription at the conclusion of a fitting process is like asking a (sic) physician to examine a sick patient and then write a prescription for drugs that says "okay for antibiotics."

Glasses do not come into direct contact with the eye, so an ill-fitting pair of glasses does not jeopardize eye health.

During a random two-week check at one optometric office, nine cases of adverse reactions associated with contact lens wear were found. The time and expense of reporting every incident in one's practice is not feasible, and there has been no request or reporting mechanism for this information.

All providers agree that follow-up visits to the prescriber are essential to good eye health. Current practices by opticians do not ensure that these follow-up visits take place. HB 1847, as proposed, would not be effective in ensuring follow-up care when a fitting was performed by an independent optician. HB 1847 also misleads the public into thinking that contact lenses are a consumer product. Contact lenses are a medical device.

Additionally, the proposal is beyond the proper scope of a Sunrise Review. RCW 18.120.010 mandates review of the regulation of health profession not licensed or regulated and those which seek to substantially increase their scope of practice.

Statement by Ophthalmologists

Optometrists claim that there is a high rate of disasters resulting from opticians fitting contacts. Absent valid supporting evidence, the Washington Academy of Eye Physicians and Surgeons (WAEPS) rejects this claim.

WAEPS supports the opticians on this issue. Opticians have been fitting contact lenses independently in this state for a long time. Patients fits by independent opticians have optical and health results as good as patients who were fit by optometrists or ophthalmologists.

2. Are the current practices of optical prescription content and release conducive to consumer freedom of choice, cost containment, and competition among the licensed vision care providers?

Statement by Opticians

It is the contention of the Opticians Association of Washington that current rules adopted by the Board of Optometry regarding fitting of contact lenses have curtailed the consumer's freedom of choice in selecting a provider. Such restrictions create artificial circumstances in which the consumer, perceiving no option, may pay more for optical goods purchased than if they had real choice.

Even if the Opticians and Optometry resolved their differences on the specifics of the rules, PSHB 1847 would still be needed to clarify prescribers' roles and responsibilities concerning prescription content and release. The consumer is best served when all licensed providers are equally accessible.

Consumers support the PSHB 1847 because they understand the relationship between freedom of choice and cost containment and believe competition is a valid mechanism by which prices are controlled. Department of Health staff indicates that an average of ten calls per week are received from consumers complaining about not having access to their contact lens prescription.

Statement by Optometrists

Yes, current practices are conducive to consumer freedom of choice, cost control and price competition. The FTC has national regulations in force which mandate the release of spectacle prescriptions to consumers. Yet the FTC has refused to mandate the release of contact lens prescriptions because the additional consumer freedom of choice is outweighed by professional quality concerns and should be decided by state law. Few states require the release of contact lens prescriptions.

Although opticians argue that mandatory release of all contact lens fitting authorization prescriptions is in the consumers' interest, the problem of quality control remains. Although opticians are licensed, they are not tested for their competency to fit contact lenses as part of the licensing process. Mandatory prescription release will increase the risk to patients of being fit by an unqualified optician. If the law changes to mandate release of contact lens prescriptions before a fitting has been completed, there is no assurance that the health and safety of the consumers of the state will not be jeopardized.

Additional consumer choice to shop with mail order houses is inadvisable. Lenses are currently being mailed directly to consumers without verification of examination by a licensed eye professional in Washington state.

When we trivialize contact lenses by making them a consumer product instead of a prescriptive device with full follow-up care, the patient assumes they can fit themselves with contact lenses. We are not doing the consumer any favor by doing this. Even if they save money in the short run, in the long run eye health is jeopardized and complications are increased.

Statement by the Federal Trade Commission

While the record suggests that optometrists may frequently refuse to release contact lens prescriptions to patients and that the resulting costs to consumers could be significant, it does not contain sufficient reliable evidence to permit a conclusion to that effect. Nor does it permit a conclusion that there are no quality benefits associated with the refusal to release contact lens prescriptions. It cannot be concluded from the record that there are no quality justifications for refusing to release contact lens prescriptions.

Statement by Ophthalmologists

Absent valid scientific evidence to demonstrate why a long-standing practice of consumer freedom of choice should be constrained, WAEPS believes that the consumer should have a choice among opticians, optometrists and ophthalmologists for fitting of contact lenses. The legislation put forth by the opticians is a reasonable attempt to protect themselves and contact lens users.

Information From Other States

Colorado Sunset Review

[In 1991, the state of Colorado conducted a sunset review of the Board of Optometric Examiners. One part of the report deals with contact lens prescriptions.]

Contact lens prescription release is a consumer issue. If a person is traveling and loses a contact lens, replacement may be virtually impossible without a prescription. One would not suggest that any other patient travel without a prescription for necessary medication. Why should a contact lens wearer be placed at such risk and inconvenience?

Optometrists counter that the contact lenses must be fitted properly, a process that may take several attempts. The patient may receive a contact lens that is, in the worst case, torn or defective. In the latter case, serious eye infection can develop. Optometrists state that it is not in the public's best interest to allow the patient to "control" this medical procedure. But Optometrists control both supply and demand in these cases. In fact, the provider is able to charge as much as he or she desires for the lenses because the patient's alternative is to find a new optometrist, schedule an appointment, pay for an examination and then receive contact lenses. Although the consumer has a "choice" in that case, it is a lose-lose proposition. This is a serious problem for the patient who has no eyeglasses to wear in the interim, too. The Optometry Board, as a regulatory board charged to protect the public, take action in cases such as this to release the prescription.

It appears that the Optometrists' concern is that the patient understand that follow-up care is required and that the prescription is valid for a limited time period. It also seems that the concerns of the optometrists can be addressed and the patients can receive their prescriptions. For example, the optometrist can have the patient sign a waiver that states the optometrist's concern and recommendations concerning follow-up care and expiration of the contact lenses prescription.

Optometrists should be required to release the contact lens prescription to a patient if the patient has paid for the examination. Consumers are then free to purchase replacement lenses anywhere they wish and then pursue follow-up care from any provider they wish.

Maryland Sunset Review

Neither opticians nor optical companies are regulated in Maryland.

In Maryland, release of optical prescriptions is governed by the Federal Regulations which mandate release of eyeglass prescription, but not the release of contact lens prescriptions. Many optometrists in Maryland will release a contact lens prescription after the patient has returned for follow-up care to ensure that the lenses fit correctly. Also, the law governing the release of medical records requires the optometrist to release a copy of the record (including the prescription) directly to the patient or the next vision care provider. The current practices enable Maryland consumers to choose the vision care provider they wish to see based both on the quality and cost of the vision care provided.

Regulation in Other States (as reported to Department of Health)

State	Level of Regulation*
AK, FL, GA, HI, NJ, NY, OH, RI, TN	All Licensed
DC, IA, KS, MD, MI, MO, PA, UT, WI, WY, Virgin Islands	Ophthalmologists licensed Optometrists licensed Opticians not regulated
CO, ME, SC, SD	Optometrists licensed
CA, NH, TX	Ophthalmologists licensed Optometrists licensed Opticians registered

* The level of regulation cited may or may not equal Washington State's definition of registration, certification or licensing.

Findings

Response to Question 1: No.

No evidence was presented to show that harm is being caused to the public by current practices among opticians, optometrists and ophthalmologists. In fact, strong testimony indicated that good business and professional relationships exist between opticians and ophthalmologists in most cases, and between opticians and optometrists in many cases.

Department of Health files indicate that since January 1991, seven written complaints were made against dispensing opticians concerning contact lenses. The subjects of these complaints include: fitting without a valid prescription, improper filling of a contact lens prescription, improper aftercare, and billing disputes. Since May 1991, the Board of Optometry has received 19 written complaints against optometrists alleging improper fitting of contact lenses, delays in receiving contact lenses, required return trips during the fitting process, or excessive billing for contact lenses. The volume and nature of these complaints does not seem to indicate a pervasive threat to the public safety. No professional credentialing program is without any complaints.

Training requirements have passed the test of practical implementation for many years. Because optician training does not require a medical doctor degree or graduate school degree does not mean it is insufficient for the scope of practice.

It does not seem logical that the legislature gave opticians the authority to fit contact lenses many years ago and that suddenly, without evidence of any problems, this authority should be taken away or reduced.

The applicant's proposal (Proposed Substitute HB 1847) would enhance current practices by adding some uniformity to the prescription process by treating the relationship between the optician and any prescriber the same. The prescriber, patient, filler of the prescription would be analogous to the medical doctor, patient and pharmacist process that exists.

The applicant's proposal is in line with national and state health care reform by emphasizing personal responsibility.

Response to Question 2: No.

Optometrists' objection to the applicant's proposal seems to be telling the opticians how to fill the prescription, even though opticians have adequate training to do so and have not demonstrated a general, profession-wide problem in doing so.

Mandating prescription release (with "OK for contacts") maximizes patient freedom of choice and enhances competition.

All parties agree the out-of-state mail order problem needs to be addressed. All parties also agree that mandating prescription release, if done, should be done in a way so as to not contribute unnecessarily to this problem.

Applicant's proposal would give uniformity to the prescription process. There is a safeguard, if you will, that optometrists who don't want to do contact lenses don't have to; market conditions prevail. Patient freedom of choice to choose a fitter of contact lenses is greatly enhanced by the proposal without jeopardizing public health and safety.

Mandating that a patient always return to a given provider is not consistent with cost containment or freedom of choice. This is especially so when only a small percentage of the patients might be affected: only about 5% of prescriptions are filled by independent opticians (i.e., not working with an Optometrist or Ophthalmologist), and only a small percentage of all patients might have eye health problems that contraindicate contacts. Why have a statewide system, as proposed by the Optometrists' rules, for all to prevent hypothetical situations affecting just a few, perhaps 1-2% of 5%?? This would appear to be over regulation and contrary to the concept of "individual responsibility."

In addition, questions were raised concerning which provider or combination of providers presented the greatest value in terms of care received for dollar expended. Department staff surveyed a variety of providers and found an equally varied array of pricing plans. In some cases, the cost of the exam includes a fitting fee. In other cases, the fitting fee is a separate cost, or may be included in the cost of the lenses. An optometrist might charge for a follow-up visit if the lenses were purchased from an Optician they did not know; otherwise, it might be included. If lenses are purchased at a large "discount" optical store run by opticians, the on-site optometrists follow-up visit might likely be included. An FTC study concluded that on the surface, Optometrists seemed to offer the most service for a comparable price, but warned that there were too many variables that they could not quantify that would greatly influence that conclusion. Although Optometrists criticized the FTC study comparing the three providers, they have not provided any other study to contradict that all three provide equivalent quality of care at comparable prices.

Ophthalmologists currently give written prescriptions to patients so they can get them filled and refilled where they chose. The process can work just as well for Optometrists.

Although FTC held back on national rules for mandating contact prescription release, it deferred to the states and did NOT take any position about questions of quality, only saying they had some concerns that states might want to look at. In reading their lengthy report, it is quite vague and noncommittal. It says, in part: "Staff cannot conclude from the rulemaking record that a practitioner's refusal to release contact lens prescriptions is or is not an unfair act or practice." This is not a strong statement FOR OR AGAINST mandatory release. It is a waffle position and only addresses "unfair".

A statement from one Ophthalmologist's letter summarizes the issue: "No legislation can insure that proper eye care be taken at each of the required steps. Only appropriate training and vigilance by each of these groups in an attempt to provide ethical contact lens care will achieve this."

Recommendations

1. *With minor modifications (described below) applicant's proposal should be adopted by the legislature.*

Rationale: Using questions provided by the House Health Care Committee, the answer to question 1 is "No" and the answer to question 2 is "No." Because applicant's proposal enhances consumer choice, cost containment and competition without jeopardizing public health and safety, proposal (PSHB 1847) should be adopted, with changes noted in this section.

2. *Clarify the wording about time limits on prescriptions. Proposed Substitute HB 1847 is unclear as to the minimum and maximum. (Sec 3(1)d and 4(3)). Reword the first sentence as follows:*

"3(1)(d) Unless warranted by the ocular health of the eye, include a prescription expiration date of less than two years."

The remainder of the paragraph remains the same.

Rationale: Unnecessarily limiting the duration will force patients to revisit prescribers too often (if not justified by eye health). Setting too long a duration might allow problems to develop over time that a prescriber should be able to pick up. Two years seems a reasonable benchmark. But the current wording is unclear.

3. *Patient notification should be improved by requiring all fitters and dispensers of contact lenses to distribute a safety pamphlet, such as the one prepared by a variety of eye health care organizations (attached) or comparable material.*

Rationale: If patients are going to assume great personal responsibility for their health, they need to have better information. These patient notification suggestions enable patients to make better consumer decisions as well as health-related decisions.

4. *Allow follow-up visits with the provider of the consumer's choosing.*

Suggested Wording for Section 4 (2) (change "the prescriber" to "a prescriber"):

"If a patient chooses to purchase contact lenses from an optician, the optician shall advise the patient, in writing, that a prescriber is to monitor the performance of the initial set of contact lenses on the eyes." (The remainder of the paragraph remains the same.)

Rationale: Instead of forcing all patients to revisit a particular prescriber on a time frame designed by the legislature, the patient should be made aware of potential problems, discuss them with the provider, and then have the freedom to choose the course of action appropriate to their situation. A particular prescriber or patient may move, making return to the prescriber difficult. Another properly licensed prescriber may conduct follow-up examinations.

5. *Clarify that a prescriber is not required to note "okay for contacts" if the patient does not want contacts. Suggested wording for the first sentence of Section 3 (1)(c):*

"(c) If the patient wants contact lenses, fail to include a notation of "okay for contacts" or similar language on the prescription if the prescriber would have otherwise fitted the patient, provided there are no contraindications for contacts.

Rationale: This is essentially a technical change. The current wording requires all prescribers to note "okay for contacts" for all patients, even if contacts are not desired.

Participant List

Gary Clayton, School of Opticianry
Bill Erxleben, Washington Association of Optometric Physicians
Kathy Fetter, Opticians Association of Washington
Ron Fettle, Optician
Garard M. Gustafson, O.D., State Board of Optometry
Karl Harris, Optician
Dave Hess, Optician
Patricia M. Keech, Group Health Contact Lens Section
Rick Kehl, Independent Optician
LeRoy J. Kery, Optician
Molly Kung, Consumer
Don Pick, Optician
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Review Panel Members

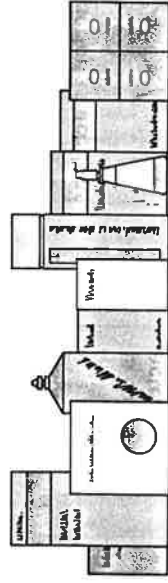
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Joe Jimenez, DOH, Office of Media Relations
Judy Haenke, DOH, Health Professions Quality Assurance Division
Nick Federici, State Board of Health
Tom Evans, Department of Labor and Industries, Health Services Analysis

Literature List

1. Sunset Review: State Board of Examiners in Optometry, Maryland Department of Fiscal Services
2. Department of Commerce and Economic Development, Board of Examiners in Optometry, Board of Dispensing Opticians, Alaska Division of Legislative Audit
3. Sunset Review: The State Board of Optometric Examiners, Colorado Department of Regulatory Agencies
4. Seeing a Bigger Role for Vision Care. Moss K; Bus Health 1993 Apr, 11(5):82,84-6.
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Know your products!

Lens Care Product Awareness



- ★ **Cleaning** solutions remove dirt, mucus, and debris that get on the lens during wear.
- ★ **Disinfecting** solutions kill (eliminate) bacteria (germs) on the lenses. Disinfection is necessary to help prevent serious eye infections.
- ★ **Rinsing** solutions are used to remove other solutions from the lenses. They also prepare the lenses for wear.
- ★ **Enzyme** solutions remove protein and other deposits that build up on the lenses over time.
- ★ **Rewetting** solutions can be used to wet (lubricate) the lenses while you are wearing them to make them more comfortable.
- ★ Some solutions may have more than one function, which will be indicated on the label. Read the label on the solution bottle.
- ★ Keep solution containers tightly closed and upright in a clean, dry, cool place when not in use.
- ★ Solutions may become contaminated after opening. Do not touch open bottle tips to any surface. Throw away opened solutions as recommended. Do not use any solutions after their expiration date.

Developed in cooperation with:

American Academy of Ophthalmology
 American Academy of Optometry
 American Optometric Association
 Bureau of Radiation and Medical Devices, Canada
 Contact Lens Association of Ophthalmologists
 Contact Lens Institute
 Contact Lens Manufacturers Association
 Contact Lens Society of America
 Food and Drug Administration
 National Association of Optometrists and Opticians
 National Society to Prevent Blindness
 Opticians Association of America

WHAT YOU NEED TO KNOW ABOUT SAFE CONTACT LENS WEAR

The information included in this brochure is intended to be a helpful guide to wearers of all types of contact lenses. Whether you wear soft, RGP (Rigid Gas Permeable), hard, disposable, extended-wear, or daily-wear lenses, most of this information will apply to you.

Know your routine!

Care Regimen Awareness

- ✦ Different solutions cannot always be used together and not all solutions are safe for use with all lenses. Use **ONLY** the lens care solutions recommended by your eye care practitioner, and **DO NOT** change brands without his/her approval.
- ✦ Follow directions in the package inserts for the use of contact lens solutions.
- ✦ There are three (3) **essential** steps in contact lens care:

Cleaning

Rinsing

Disinfecting



- ✦ Every time contact lenses are removed, they must be cleaned, rinsed, and disinfected before wearing again. Some solutions are designed to perform more than one of these functions.
- ✦ Always remove, clean, rinse, enzyme, and disinfect your lenses according to the schedule prescribed by your eye care practitioner.

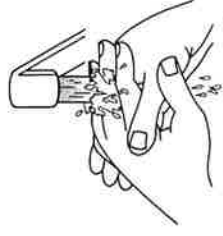
- ✦ The use of an enzyme or any cleaning solution **does not substitute for disinfection**.

- ✦ Lenses stored longer than 12 hours may require cleaning, rinsing and disinfecting **again** before use. Consult the package literature or your eye care practitioner for specific instructions.

Knowledge is safety!

Recommendations for Safe Contact Lens Wear

- ✦ Never wear lenses longer than prescribed. Do not use/wear daily wear lenses while sleeping.
- ✦ Do not wear your lenses overnight unless recommended by your eye care practitioner. Overnight wear of contact lenses increases the risk of complications.



- ✦ Always wash, rinse, and dry your hands before handling lenses.



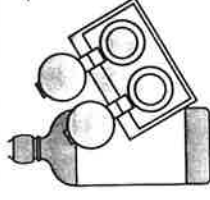
- ✦ Do not use saliva to wet your lenses. Do not put lenses in your mouth.

- ✦ Use only approved contact lens solutions for lubricating or wetting your lenses.

- ✦ Always use fresh solutions in your lens case when disinfecting your lenses.

- ✦ Ask your eye care practitioner about wearing lenses during water activities and other sports.
- ✦ **Schedule and keep** follow-up appointments with your eye care practitioner.

- ✦ Do not use non-sterile home-prepared saline unless recommended by your eye care practitioner. The use of home-prepared saline with contact lenses has been associated with serious infections.



- ✦ Contact lens cases can be a source of bacteria growth. Lens cases should be cleaned, rinsed, and allowed to air dry each time the lenses are removed. Replace the lens case frequently.

- ✦ If your eyes become red, irritated, painful or if your vision worsens while wearing lenses, immediately remove the lenses and consult an eye care practitioner.

- ✦ Do not get lotions, creams, or sprays in your eyes or on your lenses. It is best to put on lenses before putting on makeup and remove them before removing makeup. Water-base cosmetics are less likely to damage lenses than oil-base products.

- ✦ You should have eye examinations every 6 - 12 months or as recommended by your eye care practitioner.



- ✦ Contact lenses wear out with time and should be replaced regularly.

- ✦ Disposable and frequent or planned replacement lenses should be thrown away after the recommended wearing period prescribed by your eye care practitioner.

1 AN ACT Relating to the vision care consumer assistance act; adding
2 a new chapter to Title 18 RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. Sec. 1. LEGISLATIVE INTENT. The legislature finds
5 that in the newly reformed health care delivery system it is important
6 to clarify providers' roles to ensure that they are working together to
7 maximize patient access while controlling costs. This is especially
8 important in the vision care industry, where the potential for
9 confusion exists due to comparable scopes of practice among licensed
10 providers.

11 The legislature finds that boards regulating health care
12 professions should keep sight of the necessary balance between public
13 safety and access to affordable care, and adopt rules that are
14 consistent with their legislative intent. The risk that this balance
15 may be lost is especially high in the optical industry, where
16 competitive pressures have led to the involvement of the federal trade
17 commission. The legislature recognizes its role in ensuring
18 appropriate access to vision care for those persons residing in the

1 state by clarifying necessary prescription content and ensuring
2 prescription release to the patient.

3 NEW SECTION. Sec. 2. DEFINITIONS. For purposes of this chapter,
4 the following definitions apply:

5 (1) "Dispensing" means the retail delivery of ophthalmic goods to
6 the patient by a prescriber or optician.

7 (2) "Eye examination" means a testing process administered by a
8 prescriber that includes the process of determining the refractive
9 condition of a person's eyes and the appropriateness of contact lenses.

10 (3) "Fitting" means the performance of mechanical procedures and
11 measurements necessary to adapt and fit eyeglasses or contact lenses
12 from a written prescription. In the case of contact lenses, the
13 prescription must be in writing and fitting includes the selection of
14 the physical characteristics of the lenses including conversion of the
15 spectacle power to contact lens equivalents, lens design, material and
16 manufacturer of the lenses, and supervision of the trial wearing of the
17 lenses which may require incidental revisions during the fitting
18 period. The revisions may not alter the effect of the written
19 prescription.

20 (4) "Ophthalmic goods" means eyeglasses or a component or
21 components of eyeglasses, and contact lenses.

22 (5) "Ophthalmic services" means the measuring, fitting, adjusting,
23 and fabricating of ophthalmic goods subsequent to an eye examination.

24 (6) "Optician" means a person licensed under chapter 18.34 RCW.

25 (7) "Patient" means a person who has had an eye examination.

26 (8) "Person" means an individual, partnership, corporation,
27 association, or other entity.

28 (9) "Practitioner" includes prescribers and opticians.

29 (10) "Prescriber" means an ophthalmologist or optometrist who
30 performs eye examinations under chapter 18.53, 18.57, or 18.71 RCW.

31 (11) "Prescription" means the written directive from a prescriber
32 for corrective lenses and consists of the refractive powers. If the
33 patient wishes to purchase contact lenses, the prescription must
34 contain a notation that the patient is "okay for contacts" or similar
35 language confirming there are no contraindications for contacts.

36 (12) "Secretary" means the secretary of the department of health.

1 NEW SECTION. **Sec. 3.** SEPARATION OF EXAMINATION AND DISPENSING.

2 (1) No prescriber shall:

3 (a) Fail to provide to the patient one copy of the patient's
4 prescription at the completion of the eye examination. A prescriber
5 may refuse to give the patient a copy of the patient's prescription
6 until the patient has paid for the eye examination, but only if that
7 prescriber would have required immediate payment from that patient had
8 the examination revealed that no ophthalmic goods were required;

9 (b) Condition the availability of an eye examination or
10 prescription, or both, to a person on a requirement that the patient
11 agree to purchase ophthalmic goods from the prescriber or a dispenser
12 approved by the prescriber;

13 (c) Fail to include a notation of "okay for contacts" or similar
14 language on the prescription if the prescriber would have fitted the
15 patient himself or herself, provided there are no contraindications for
16 contacts. If the prescriber concludes the ocular health of the eye
17 presents a contraindication for contact lenses, a verbal explanation of
18 that contraindication must be given to the patient by the prescriber at
19 the time of the eye examination and documentation maintained in the
20 patient's records. However, a prescriber may exclude categories of
21 contact lenses where clinically indicated;

22 (d) Include a prescription expiration date of less than two years
23 if the patient is being fitted with contact lenses, unless warranted by
24 the ocular health of the eye. If a prescription is to expire in less
25 than two years, an explanatory notation must be made by the prescriber
26 in the patient's record and a verbal explanation given to the patient
27 at the time of the eye examination;

28 (e) Charge the patient a fee in addition to the prescriber's
29 examination fee as a condition to releasing the prescription to the
30 patient. However, a prescriber may charge a reasonable, additional fee
31 for verifying ophthalmic goods dispensed by another practitioner if
32 that fee is imposed at the time the verification is performed; or

33 (f) Place on the prescription, or require the patient to place on
34 the prescription, sign, or deliver to the patient a form or notice
35 waiving or disclaiming the liability or responsibility of the
36 prescriber for the accuracy of the eye examination or the accuracy of
37 the ophthalmic goods and services dispensed by another practitioner.

1 (2) Nothing contained in this title shall prevent a prescriber or
2 optician from measuring the refractive power of eyeglass lenses and
3 duplicating the eyeglass lenses upon the request of a patient.

4 NEW SECTION. **Sec. 4. MAXIMIZING COMPETITION IN THE OPTICAL**
5 **INDUSTRY.** (1) If the patient chooses to purchase contact lenses from
6 an optician and the prescription is silent regarding contact lenses,
7 the optician shall contact the prescriber and request a written
8 prescription with a notation of "okay for contacts" or similar
9 language.

10 (2) If a patient chooses to purchase contact lenses from an
11 optician, the optician shall advise the patient, in writing, that the
12 prescriber is to monitor the performance of the initial set of contact
13 lenses on the eyes. The patient shall be requested to sign the written
14 advisement and the signed document will be maintained as part of the
15 patient's records. If the patient declines to sign the document, it
16 shall be noted in the record.

17 (3) No practitioner may dispense contact lenses based on a
18 prescription that is over two years old.

19 (4) It is unprofessional conduct under chapter 18.130 RCW for a
20 practitioner to fail to comply with this section.

21 NEW SECTION. **Sec. 5. EXPANSION OF SCOPE OF PRACTICE.** Nothing in
22 this chapter shall be construed as expanding the scope of practice of
23 a vision care practitioner beyond that currently authorized by state
24 law.

25 NEW SECTION. **Sec. 6. RULE MAKING.** (1) The secretary shall adopt
26 rules necessary to implement the purposes of this chapter. The
27 secretary is specifically directed to adopt rules that maximize
28 competition in the delivery of vision care limited only by the existing
29 scope of practice of the professions and by provisions preventing
30 demonstrated and substantial threats to the public's vision health.

31 (2) This chapter and the rules adopted by the secretary pursuant to
32 this section shall supersede rules adopted by professions regulated
33 pursuant to chapter 18.34, 18.53, 18.57, or 18.71 RCW that conflict
34 with this chapter. To the extent that, in the secretary's opinion,
35 rules adopted by these professions conflict with the purposes of this
36 chapter, the secretary may declare the rules null and void.

1 NEW SECTION. **Sec. 7.** SHORT TITLE. This chapter may be cited as
2 the consumer access to vision care act.

3 NEW SECTION. **Sec. 8.** CODIFICATION DIRECTION. Sections 1 through
4 7 of this act shall constitute a new chapter in Title 18 RCW.

5 NEW SECTION. **Sec. 9.** CAPTIONS NOT LAW. Section captions as used
6 in this act constitute no part of the law.

7 NEW SECTION. **Sec. 10.** SEVERABILITY. If any provision of this act
8 or its application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

--- END ---

Please place under TAB 8. Thank you.

FOR ACTION

SBOH STAFF ANALYSIS AND RECOMMENDATIONS
VISION CARE CONSUMER ASSISTANCE ACT
SUNRISE REVIEW

January 12, 1994

**APPLICANT PROPOSAL: CLARIFICATION OF THE PROPER ROLES OF
VISION CARE PROVIDERS**

**STAFF RECOMMENDATION: RECOMMEND APPROVAL OF VISION CARE
CONSUMER ASSISTANCE ACT AS WRITTEN**

Current Practice

There are major vision care professions licensed by the State of Washington:

- ◆ Ophthalmologists are medical doctors (MD) specializing in medical and surgical eye care. As MDs, Ophthalmologists may conduct comprehensive medical evaluations of disease, and prescribe and conduct treatment, including surgery. As part of this, they may also and treat routine refractive vision problems, including prescription and provision of corrective treatment, e.g. eyeglasses or contact lenses.
- ◆ Optometrists, doctors of optometry (OD) specializing in vision care, may conduct eye examinations to detect vision problems and prescribe necessary corrective action. Optometrists may diagnose medical eye problems and use topical drugs for treatment, and fashion and fit eyeglasses and contact lenses. According to a Washington Association of Optometric Physicians (WAOP) representative, Optometrists write 80-90% of vision correction prescriptions, with Ophthalmologists writing the remainder.
- ◆ Opticians are optical technicians who fashion and fit eyeglasses and contact lenses, and ensure the proper fit of eyewear on the face or eye. According to WAOP, Optometrists and Opticians fill over 95% of all vision care prescriptions, competing with one another for this business, with the balance filled by Ophthalmologists.

Since 1957, Opticians' scope of practice has been defined in RCW 18.34.060 as follows:

"A dispensing optician is a person who prepares duplications of, or prepares and dispenses lenses, spectacles, eyeglasses and/or appurtenances thereto to the intended wearers thereof on written prescriptions from physicians or optometrists, and in accordance with such prescriptions, measures, adapts, adjusts and fabricates such lenses, spectacles, eyeglasses and/or appurtenances thereto to the human face for the aid or correction of vision or ocular anomalies of the human eye: PROVIDED, HOWEVER, That contact lenses may be fitted only upon a written prescription of a physician or optometrist."

Standard practice has been for prescribers to indicate "OK for contacts" on eyeglass prescriptions, with the Optician phoning the prescriber for authorization if such an indication is not present on the prescription. Authority to grant Opticians the ability to fit contact lenses rests with the prescriber; and Opticians are, therefore, reliant on prescribers for their business. In recent years Optometrists have grown more reluctant to use such authority, due to their belief that visual health may be compromised by inadequate contact lens evaluation and follow-up care when Opticians dispense contact lenses based on an oral "OK for contacts" authorization.

Applicant Proposal

The Opticians Association of Washington (OAW) submitted a legislative proposal (Proposed SHB1847), the Vision Care Consumer Assistance Act. Normally, a Sunrise Review is done in the case of a proposed change in level of regulation or scope of practice for a health profession. Though the Vision Care Consumer Assistance Act would not directly address traditional Sunrise Review issues, Representative Dennis Dellwo, House Health Care Committee Chair, asked the State Board of Health (SBOH) and Department of Health (DOH) to review this proposal and answer two specific Sunrise Review-related questions:

1. Is the public health and safety at risk under the current practices of licensed vision care providers?
2. Are the current practices of optical prescription content and release conducive to consumer freedom of choice, cost containment, and competition among the licensed vision care providers?

PSHB1847 seeks to preserve the current official practices of licensed vision care providers (Ophthalmologists, Optometrists, and Opticians), and to promote consumer freedom of choice, cost containment, and competition among these licensed vision care providers. Therefore, if it is found that answer to each of the two questions posed by Chairman Dellwo above is "no", they will have fulfilled the necessary criteria for the purposes of this Sunrise Review.

OAW proposed SHB1847 in response to repeated actions by the Board of Optometry to

constrain the scope of Optician practice. In 1984, 1986, and 1992, that board proposed rules which would change the nature of prescriptions and filling authority for Opticians. In each year, the Legislature's Joint Administrative Rules Review Committee (JARRC) disallowed these rules as being beyond the board's authority.

Currently-pending rules proposed by the Board of Optometry in September 1992 (WACs 246-851-540, and 246-824-200, -210, -220, and -240) would once again negatively impact Opticians, according to OAW. The effect of these rules would be to change the nature of a contact lens prescription. A trial contact lens prescription would be issued, expiring 180 days after the eye examination. The patient must return to the prescriber for a required follow-up visit in order to receive a refillable prescription. The board felt these rules were necessary for two reasons: (1) fitting of a patient with contact lenses based on a spectacle prescription and an oral "OK for contacts" may not be based on an adequate contact lens evaluation examination; and (2) need for follow-up care with the prescriber in order to ensure proper contact lens fit.

Because Opticians rely on prescribers for their business, and OAW believes that the Board of Optometry proposed rules would infringe on consumers' freedom of choice and Opticians' ability to practice, OAW is seeking legislative clarification of fitting authority through PSHB1847. PSHB1847 is intended to clarify the proper roles of vision care providers, and ensure maximum patient choice and access, while controlling costs. Provisions of PSBH1847 would:

- ◆ Clarify several definitions, particularly for "prescription" and "fitting" of eyeglasses and contact lenses
- ◆ Require prescribers (Ophthalmologists and Optometrists) to provide patients with copies of their eyeglass prescriptions, with the indication "OK for contacts", if warranted
- ◆ Establish a prescription expiration date of no less than two years for patients being fitted with contact lenses, unless ocular health concerns warrant a shorter time period
- ◆ Require Opticians to obtain a written prescription from the prescriber if the patient desires contact lenses, the prescription does not indicate whether or not contacts are allowed for the patient
- ◆ Require Opticians who fit contacts to advise patients in writing to return to the prescriber for follow-up care of the initial set of lenses on the eye, and to have the patient sign a statement that they had received this notification
- ◆ Permit the DOH Secretary to overrule/modify rules promulgated by professional boards in cases where they conflict with the content of this bill.

Scope of practice, level of regulation, and educational and examination requirements for Ophthalmologists, Optometrists, and Opticians would not change under OAW's SHB1847.

Information Summary

A public hearing was held jointly by SBOH and DOH staff in October 1993. Extensive oral and written testimony was received from representatives of the OAW and WAOP, as well as independent Opticians and Optometrists. Substantial written comments were received from the Opticians and Optometrists, as well as the Ophthalmologists, during the subsequent ten-day written comment period. All comments received are available for your review in the binders marked "Vision Care Consumer Assistance Act" on the Resource Table, including information received from other states about their regulations.

The applicant group, OAW, indicates that current practice by Optometrists, coupled with the Board of Optometry's pending rules, would unreasonably infringe on patients' freedom to choose a vision care provider for dispensing and fitting contact lenses. OAW says there is potential risk to visual health if: contact lenses are fitted improperly; a patient's eyes are not suited for contact lenses; or subsequent follow-up care is not received by the patient from the contact lens prescriber. Corneal abrasions and many types of eye infections are examples of potential problems that may develop. In some cases, these problems may even endanger vision. Under current practice, Opticians cannot dispense contact lenses without a written prescription and at least an oral authorization from the prescriber for contact lens dispensing and fitting. OAW believes this does not jeopardize visual health.

Optometrists, represented by WAOP, believe the public is at risk from current contact lens prescription practices for two reasons. First, current practices encourage inadequate contact lens evaluation examinations, where an oral approval for contact lenses with an eyeglass prescription is the basis for contact lens fitting by an Optician. Second, current practices allow a patient to be fitted for contact lenses and supplied with lenses thereafter, without an evaluation of final lens fit on the eye by the prescriber. The Board of Optometry has, therefore, proposed the pending rules mentioned above in order to better protect the public's visual health.

Although WAOP offered written and oral testimony that harm to visual health is a regular and persistent problem due to lack of proper eye care in connection with contact lenses, they have not provided any substantiated cases for this Sunrise Review. Few cases have even been reported to the Board of Optometry. DOH reports that since May 1991, the board has received 19 complaints about Optometrists and 7 complaints about Opticians. Complaints included improper fitting of contact lenses, delays in receiving contact lenses, required return trips during the fitting process, or excessive billing of contact lenses. None of these complaints received from consumers related to endangerment of eye health by Opticians' improper fitting practices.

DOH reports an average of 10 complaints per week are received regarding non-release of contact lens prescriptions by Optometrists. None of these complaints have resulted in disciplinary action.

Testimony indicates that Ophthalmologists do not write as many prescriptions for eyewear as Optometrists, nor do they usually dispense and/or fit eyeglasses or contact lenses, as Optometrists and Opticians do. Contrary to the concerns of Optometrists, the Washington Academy of Eye Physicians and Surgeons, representing Ophthalmologists, has endorsed OAW's proposal in PSHB1847.

Summary of Professional Associations' Positions

- ◆ Opticians Association of Washington (OAW), representing Opticians, is the applicant group. They are requesting approval of PSHB1847 as proposed.
- ◆ Washington Association of Optometric Physicians (WAOP), representing Optometrists, oppose the proposal. WAOP prefers endorsement of the pending Board of Optometry rules.
- ◆ Washington Academy of Eye Physicians and Surgeons (WAEPS), a specialty group of the Washington State Medical Association (WSMA), represents Ophthalmologists. WAEPS supports approval of the proposal.
- ◆ WSMA has not taken a position on this Sunrise Review, deferring to the professional judgment of the Ophthalmologic specialists in WAEPS.

Recommendations

Recommend approval of Vision Care Consumer Assistance Act as written.

The Legislature requested answers to two specific questions in lieu of the traditional Sunrise Review criteria:

- ◆ Is the public health and safety at risk under the current practices of licensed vision care providers?
- ◆ Are the current practices of optical prescription content and release conducive to consumer freedom of choice, cost containment, and competition among the licensed vision care providers?

Based on the oral and written information submitted in the course of this Sunrise Review process, the answer to both questions is "no".

PSHB1847 seeks to protect public health and safety by preserving the current official practices of licensed vision care providers (Ophthalmologists, Optometrists, and Opticians), and to promote consumer freedom of choice, cost containment, and competition among licensed vision care providers. Because the answer to the two questions posed by Chairman Dellwo above is found to be "no", OAW has adequately shown the proposal's ability to fulfill the necessary criteria for the purposes of this Sunrise Review.

PSHB1847 would not substantially change the nature of current practices of licensed vision care providers, but seeks to clarify and stabilize the respective roles of the various vision care professions under the existing system in an effort to avoid future conflicts. No convincing evidence has been presented to show that there is any harm to the public from the current practices that SHB1847 seeks to preserve.

PSHB1847 also seeks to maximize consumer freedom of choice and competition, particularly by mandating eyeglass prescription release with an "OK for contacts" notation,. There is no clear evidence regarding cost containment, but enhanced freedom of choice and competition are more compatible with this goal than constrained choice and restricted competition.